

DISTRICT OF COLUMBIA
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SYLVIA VANDERBILT,
Tenant/Petitioner,

v.

KAREN L. B. EVANS,
Housing Provider/Respondent.

Case No.: RH-TP-07-28956
In re 2229 Newton Street NE

FINAL ORDER

This tenant petition arises out of a strained relationship that arose when Tenant occupied a basement apartment in Housing Provider's residence. For reasons I discuss below, I conclude that Tenant has not proven four of her five claims and that I cannot penalize Housing Provider for the single claim that Tenant has proven.

On May 3, 2007, Tenant/Petitioner Sylvia Vanderbilt filed Tenant Petition ("TP") 28,956 with the Rent Administrator alleging violations of the Rental Housing Act of 1985 (the "Rental Housing Act," or the "Act") by Housing Provider Karen L. B. Evans, at Tenant's Housing Accommodation in the basement of Housing Provider's residence at 2229 Newton Street NE. The tenant petition alleged that: (1) a rent increase was taken while the unit was not in substantial compliance with the District of Columbia Housing Regulations; (2) the building in which the rental unit is located is not properly registered with the Rental Accommodations and Conversion Division ("RACD") of the Department of Consumer and Regulatory Affairs

("DCRA");¹ (3) services and/or facilities provided in connection with the rental of the unit had been substantially reduced; (4) retaliatory action had been directed against Tenant by Housing Provider for exercising Tenant's rights in violation of Section 502 of the Rental Housing Act; and (5) a notice to vacate had been served on Tenant in violation of Section 501 of the Rental Housing Act.

The parties appeared and testified at a hearing on July 23, 2007. Both parties submitted exhibits into evidence.² Based on the testimony at the hearing, the exhibits received in evidence, and the record as a whole, I conclude that Tenant has prevailed only on her claim that the property was not properly registered, a claim for which no penalty may be imposed absent proof of willfulness. Therefore, I dismiss Tenant's other claims in accord with the following Findings of Fact and Conclusions of Law.

I. Findings of Fact

In the fall of 2006 Tenant responded to a listing with the Howard University Off-Campus Housing Referral Service for the basement apartment at the Housing Accommodation, 2229 Newton Street NE. The listing indicated that cable TV and cable Internet were included in the services for the apartment.

On November 1, 2006, Tenant leased the apartment. The lease provided for a rent of \$500 per month over a one-year term. Petitioner's Exhibit ("PX") 105. A clause in the lease

¹ On October 1, 2007, the rental housing functions of the Department of Consumer and Regulatory Affairs were transferred to the Department of Housing and Community Development ("DHCD"). The RACD functions were assumed by the Rental Accommodations Division of DHCD. The transfer does not affect any of the issues in this case.

² The Appendix to this Final Order is a list of exhibits received in evidence.

stated that Tenant “acknowledges that he/she has examined the leased premises and his/her acceptance of this Agreement is conclusive evidence that said premises are in good and satisfactory order and repair and in substantial compliance with the D.C. Housing Regulations unless otherwise specified herein.” *Id.*

Shortly after she moved in Tenant began to complain about a number of conditions in the apartment.

Tenant developed an itch and broke out in hives about two weeks after she moved in. Tenant believed fleas from Housing Provider’s dog were responsible. Housing Provider sprayed the apartment and then arranged for an exterminator to treat the area. The malady did not recur after the exterminator treated the area.

Tenant complained that she did not have a separate mailbox for her mail. Housing Provider procured a separate mailbox but refused to give Tenant a key until Tenant returned a key to the front door of the house. An altercation ensued in which Housing Provider accused Tenant of throwing the key at her. On subsequent occasions when Housing Provider answered her door she was accompanied by her Doberman pinscher. Tenant was intimidated by the dog and stopped making complaints to Housing Provider in person. Although Tenant did not have a separate mailbox, she acknowledged that she continued to receive mail that Housing Provider left for her.

Tenant testified that Housing Provider’s son played loud music and disturbed her. She did not testify about the details of any specific complaints.

The Housing Accommodation's washer and dryer were in the basement adjacent to Tenant's apartment and were accessed through the apartment. Tenant complained that Housing Provider and her son used the washer and dryer at inconvenient times and violated Tenant's privacy. Housing Provider then used the washer and dryer only on Saturday, but sometimes used the machines late in the evening.

In early February, 2007, Housing Provider discontinued her cable TV and Internet service and attempted to switch to DSL. Consequently, Tenant no longer had access to the Internet and cable TV. The switch to DSL was problematic. Housing Provider cancelled the DSL service but did not restore cable service. Tenant then asked Housing Provider to reduce the rent on account of the reduction in services. Housing Provider never agreed to reduce the rent.

Housing Provider had registered other rental properties that she owned, and was aware of the requirement to register rental properties. But she did not register the Housing Accommodation here until February 21, 2007, because she initially believed that units in private homes were not required to be registered. By then Housing Provider had decided that she wanted to repossess the basement apartment for her own use. Promptly after registering the property, Housing Provider served Tenant with a 90-day Notice To Vacate for Personal Use and Occupancy. Respondent's Exhibit ("RX") 205. The Notice was mailed to Tenant and a copy was sent to the Rent Administrator. Tenant did not deny receiving the Notice.

Tensions between Tenant and Housing Provider remained strained. On February 25, 2007, the heat in Tenant's apartment shut off. Tenant did not complain to Housing Provider because she was afraid of Housing Provider's dog; she called the police. The heat was restored within 24 hours.

In March and April 2007 heavy rains caused flooding in Tenant's apartment, soaking the rug and restricting Tenant's access to part of her bedroom. Although she asserted that she left phone messages about the incident with Housing Provider, Tenant also testified that she had not "seen or spoken" to Housing Provider after February 25, 2007. Additionally, Tenant acknowledged that "I don't know if I said anything to [Housing Provider]." Housing Provider denied receiving any phone messages, although she had an answering machine. I credit Housing Provider's testimony in light of the uncertainty of Tenant's account and find that Tenant did not give Housing Provider notice of the water leakage in her apartment or any other housing code violations.

Instead of complaining to Housing Provider about conditions in the apartment, Tenant complained to the DCRA. On April 19, 2007, a DCRA inspector inspected Tenant's apartment and issued three Notices of Violation. The specific violations involved damage relating to water leakage in the apartment, PX 102; a missing smoke detector, PX 103; and accumulated trash in the rear yard. PX 104. Tenant testified that she had not complained to Housing Provider about any of the violations that were cited by the inspector.

By May 10, 2007, Housing Provider had abated all of the violations except for repairs relating to the water damage. RX 204. The remaining repairs were completed by July 2, 2007, after Tenant no longer occupied the apartment. RX 204.

Tenant stopped paying rent in March 2007 in response to Housing Provider's termination of the cable/Internet service and other perceived grievances. In April 2007 Housing Provider filed a complaint for possession of the apartment for non-payment of rent. PX 108. Housing Provider dismissed the complaint before the scheduled trial date, but filed a second complaint for

possession on May 29, 2007, alleging Tenant's failure to vacate within 90 days of service of the Notice To Vacate. PX 109. This action was still pending on the date of the hearing.

Tenant filed her tenant petition on May 3, 2007.

On May 16, 2007, the tension between Tenant and Housing Provider reached a climax. Housing Provider discovered that she could not get a dial tone on her phone and heard noise emanating from Tenant's apartment, which shared the phone line, when she listened through the receiver. Housing Provider concluded that Tenant had deliberately left the receiver in her apartment off the hook. Concerned that Tenant would be hostile if she were confronted directly, Housing Provider arranged for two police officers to accompany her to Tenant's apartment to restore phone service.

Tenant responded to the intrusion with fury. Tenant shoved Housing Provider so violently that the police arrested Tenant, handcuffed her, and charged her with assault. The following day a judge in the Superior Court of the District of Columbia issued a stay away order prohibiting Tenant from returning to the apartment except when police were present.

Housing Provider changed the locks to Tenant's apartment following Tenant's arrest. Tenant returned to the apartment three times to retrieve personal effects, but had not been able to remove everything by the time of the hearing.

II. Conclusions of Law

A. Jurisdiction

This matter is governed by the Rental Housing Act of 1985 (the “Act”), D.C. Official Code §§ 42-3501.01 – 3509.07, the District of Columbia Administrative Procedure Act (“DCAPA”), D.C. Official Code §§ 2-501 – 510, the District of Columbia Municipal Regulations (“DCMR”), 1 DCMR 2800 – 2899, 1 DCMR 2920 – 2941, and 14 DCMR 4100 – 4399. As of October 1, 2006, the Office of Administrative Hearings (“OAH”) has assumed jurisdiction of rental housing cases pursuant to the OAH Establishment Act, D.C. Official Code § 2-1831.03(b-1)(1).

B. Tenant’s Claims Concerning an Improper Rent Increase

The first claim asserted in the tenant petition is that an improper rent increase was taken while the unit was not in substantial compliance with the District of Columbia Housing Regulations. Because Tenant did not present evidence that Housing Provider imposed any rent increase during the time Tenant rented the apartment, Tenant failed to prove this claim.

C. Tenant’s Claim of Improper Registration

The tenant petition asserts that the building in which the rental unit is located was not properly registered. I conclude that Tenant proved this claim.

The Rental Housing Act requires that all rental units covered by the act shall be registered with the Rent Administrator. D.C. Official Code § 42-3502.05(f). Housing providers

who own four or fewer rental units may claim exemption from the rent control provisions of the Act if they file a valid claim of exemption form with the Rent Administrator. *Id.* § 42-3502.05 (a)(3). In turn, the Rental Housing Regulations require registration of “each housing accommodation of which the rental unit is a part, including each rental unit exempt from the Rent Stabilization Program.” 14 District of Columbia Municipal Regulations (“DCMR”) 4101.1.

Housing Provider acknowledged that she did not register the property here until February 21, 2007, more than three months after the lease commenced. Patently, Housing Provider was in violation of the Act and the regulations. The District of Columbia Court of Appeals has created a judicial exception to the registration requirements for small landlords who are “reasonably unaware” of the registration requirements. *Hanson v. D.C. Rental Hous. Comm'n*, 584 A.2d 592, 597 (D.C. 1991). But the evidence demonstrates that Housing Provider was aware of the registration requirements. She filed registration statements for three other rental properties that she owned. *See Budd v. Haendel*, TP 27,598 (RHC Dec. 16, 2004) at 9 (holding that hearing examiner should have found that housing provider’s filing of claim of exemption form for another rental property was proof that housing provider was aware of registration requirement). Although Housing Provider may have believed she was not required to register a rental unit that was attached to her residence, her familiarity with the registration procedures should have alerted her to the need to inquire about the application of the regulations before she leased Tenant’s apartment. I conclude that Housing Provider violated the registration requirements of the Rental Housing Act by failing to register the property before she leased the rental unit to Tenant.

Notwithstanding this violation, this Administrative Court cannot impose a penalty for Housing Provider’s transgression. The only penalty available under the Act for failure to register

is a fine. D.C. Official Code § 42-3509.01(b)(3). To impose a fine the evidence must demonstrate that Housing Provider acted “wilfully.” *Id.* This finding, in turn, requires proof that Housing Provider intended to violate the law. *Miller v. D.C. Rental Hous. Comm'n*, 870 A.2d 556, 559 (D.C. 2005). The evidence here does not reflect any such intent. Housing Provider testified that she initially failed to register the apartment because it was located in her home and she did not realize that registration was required. I find this testimony credible, and there was no evidence to controvert it, so I conclude that it would be inappropriate to impose a fine for Housing Provider’s failure to register the property.

D. Tenant’s Services and Facilities Claims

Tenant claims that the services and facilities in the rental unit were substantially reduced. Although I find that certain facilities in the apartment were substantially reduced as a result of the flooding in Tenant’s apartment, Tenant cannot prevail on this claim because she failed to give Housing Provider notice of the problem or an opportunity to correct it. *See Hudley v. McNair*, TP 24,040 (RHC Jun. 30, 1999) at 11 (“If the tenant claims a reduction of services in the interior of his unit, he must give the housing provider notice of the allegations that constitute violations of the housing code.”) (citing *Hall v. DeFabio*, TP 11,554 (RHC Mar. 6 1989)).

Here the evidence establishes that Tenant did not complain to Housing Provider about the water leakage in her apartment, the absence of a smoke detector, or the accumulation of trash. The first notice that Housing Provider received of these violations was when the DCRA inspector served Housing Provider with the Notices of Violation on April 19, 2007, less than

three weeks before the tenant petition was filed. Housing Provider then promptly abated all of the reported violations.³

The evidence shows that Tenant did complain to Housing Provider about other issues that did not involve reported housing code violations. One issue was Tenant's complaint about hives, which she attributed to fleas from Housing Provider's dog. Housing Provider took immediate steps to spray Tenant's apartment and then arranged for an exterminator to treat the apartment, which resolved the problem. A second issue was Tenant's complaint about lack of heat on February 25, 2007, which was not made to Housing Provider but to the police. As soon as Housing Provider was informed of the problem she made prompt repairs and heat was restored within 24 hours. Because Housing Provider responded to Tenant's complaints promptly and cured the problems, neither of these incidents qualifies as a substantial reduction in services or facilities under the applicable regulation. *See* 14 DCMR 4211.6 ("If related services or facilities at a rental unit . . . decrease by accident, inadvertence or neglect by the housing provider *and are not promptly restored to the previous level*, the housing provider shall promptly reduce the rent for the rental unit . . . by an amount which reflects the monthly value of the decrease in related services or facilities.") (emphasis added); *Parreco v. D.C. Rental Hous. Comm'n*, 885 A.2d 327, 337 (D.C. 2005) (reversing hearing examiner's reduction of rent due to heat failure in the absence of findings that housing provider did not restore the heat promptly).

Tenant testified that Housing Provider's son made excessive noise playing music and in other activities. This allegation does not implicate a housing code violation. Nor is it clear that the son's noisemaking would relate to any reduction in a service or facility. In addition, Tenant's

³ Housing Provider testified that she was hampered in her efforts to make repairs because Tenant did not respond to requests for access to the apartment. Because I find that the repairs were completed promptly, I do not reach any conclusion about whether Tenant obstructed the repairs.

testimony about the occasions on which she complained and the substance of her complaints was not specific enough to permit evaluation of this claim.

Similarly, Tenant's claim about Housing Provider's disturbances using the washing machine and dryer does not implicate any housing code violation or reduction in services and facilities. Tenant acknowledged that when she rented the apartment she was aware that Housing Provider would be accessing the machines through her apartment. When Tenant complained about the use of the machines on weekdays, Housing Provider accommodated Tenant by limiting her use of the machines to Saturday.

Tenant also complained that Housing Provider failed to provide her with a key to her mailbox. The Rental Housing Regulations require that the owner of each apartment house provide tenants with separate secure mail receptacles, 14 DCMR 1204.3, and with keys, 14 DCMR 1204.4. But the regulations define an "apartment house" as a building with three or more apartments. 14 DCMR 199.1. Because the Housing Accommodation here consisted of only two units, one of which was occupied by the owner, Housing Provider was not required to provide a separate mail box for Tenant.

Tenant's remaining complaint involves Housing Provider's termination of Tenant's cable TV and Internet service. This service was never restored. But, unfortunately for Tenant, cable TV and Internet service does not qualify as a "related service" under the Rental Housing Act. The Act defines "related services" as follows:

"Related services" means services provided by a housing provider, required by law or by the terms of a rental agreement, to a tenant in connection with the use and occupancy of a rental unit, including repairs, decorating and maintenance, the provision of light, heat, hot and cold water, air conditioning, telephone answering or

elevator services, janitorial services, or the removal of trash and refuse.

D.C. Official Code § 42-3501.03(27).

Tenant's cable TV and Internet service was not required by law or by the terms of the lease. PX 105. Therefore it did not qualify as a "related service" under the Rental Housing Act, and Housing Provider's termination of the service was not a violation of the Act.⁴

E. Tenant's Claims of Retaliation

Tenant asserts that Housing Provider took retaliatory action against her for exercising her rights under the Rental Housing Act. "Retaliatory action" under the Act is a term of art. The Act provides:

No housing provider shall take any retaliatory action against any tenant who exercises any right conferred upon the tenant by this chapter, by any rule or order issued pursuant to this chapter, or by any other provision of law. Retaliatory action may include any action or proceeding not otherwise permitted by law which seeks to recover possession of a rental unit, action which would unlawfully increase rent, decrease services, increase the obligation of a tenant, or constitute undue or unavoidable inconvenience, violate the privacy of the tenant, harass, reduce the quality or quantity of service, any refusal to honor a lease or rental agreement or any provision of a lease or rental agreement, refusal to renew a lease or rental agreement, termination of a tenancy without cause, or any other form of threat or coercion.

⁴ By contrast, a "related facility" is defined in the Rental Housing Act as "any facility, furnishing, or equipment made available to a tenant by a housing provider, the use of which is authorized by the payment of the rent. . . ." D.C. Official Code § 42-3501.03(26). Consequently, a claim for reduction in facilities may involve facilities that are not required by law or prescribed in the lease. *See Pinnacle Realty Mgmt. Co. v. Voltz*, TP 25,092 (RHC Mar. 4, 2004) at 9 (holding that housing provider's removal of a roof deck not designated in the lease could give rise to a claim for reduction of facilities).

D.C. Official Code § 42-3505.02(a)

Ordinarily, it is the tenant's burden to prove retaliation because the tenant bears the burden of proof under the DCAPA. D.C. Official Code § 2-509 (b). But the Rental Housing Act shifts the burden of proof to the housing provider in situations where the housing provider acts within six months of certain tenant activities.

In determining whether an action taken by a housing provider against a tenant is retaliatory action, the trier of fact shall presume retaliatory action has been taken, and shall enter judgment in the tenant's favor unless the housing provider comes forward with clear and convincing evidence to rebut this presumption, if within the 6 months preceding the housing provider's action, the tenant:

(1) Has made a witnessed oral or written request to the housing provider to make repairs which are necessary to bring the housing accommodation or the rental unit into compliance with the housing regulations;

(2) Contacted appropriate officials of the District government, either orally in the presence of a witness or in writing, concerning existing violations of the housing regulations in the rental unit the tenant occupies or pertaining to the housing accommodation in which the rental unit is located, or reported to the officials suspected violations which, if confirmed, would render the rental unit or housing accommodation in noncompliance with the housing regulations;

(3) Legally withheld all or part of the tenant's rent after having given a reasonable notice to the housing provider, either orally in the presence of a witness or in writing, of a violation of the housing regulations;

* * *

(6) Brought legal action against the housing provider.

D.C. Official Code § 42-3505.02(b).

Here Housing Provider initiated measures that are included within the definition of retaliatory acts under the Rental Housing Act. Housing Provider terminated Tenant's cable TV and Internet service, served Tenant with a notice to vacate, initiated two actions for possession, changed the locks, and refused Tenant access to the apartment. Some of these acts took place after Tenant withheld her rent, and complained to the DCRA about housing code violations, arguably triggering the presumption of retaliation under the Act.

Notwithstanding, I find that Housing Provider has rebutted any presumption of retaliation by clear and convincing evidence. Clear and convincing evidence has been described by the District of Columbia Court of Appeals as "evidence that will produce in the mind of the trier of fact a firm belief or conviction as to the facts sought to be established." *Lumpkins v. CSL Locksmith, LLC*, 911 A.2d 418, 426 n.7 (D.C. 2006) (quoting *In re Dortch*, 860 A.2d 346, 358 (D.C. 2004)). I conclude that Tenant has not sustained her burden of proving retaliation and that Housing Provider has rebutted any inference of retaliation that may arise under the Act for the following reasons:

(1) The first act by Housing Provider that could be construed as retaliatory was the service of the Notice To Vacate on February 21, 2007. This act is not subject to any presumption of retaliation because Tenant had not taken any action to trigger the presumption as of that date. Indeed, prior to February 21, Tenant had not exercised any rights under the Rental Housing Act or other laws, so service of the notice to vacate did not constitute "retaliatory action" under D.C. Official Code § 42-3505.02(b). Tenant's complaints concerning the termination of her cable service and abrasive behavior unrelated to her rights as a tenant were the principle provocation for Housing Provider's decision to occupy the basement for her own use. These are not actionable under the Rental Housing Act.

(2) The evidence indicates that Housing Provider's complaint for possession in April 2007 was not brought in retaliation for Tenant's exercise of any rights under the Rental Housing Act, but for the lawful reason that Tenant stopped paying rent. Tenant acknowledged that she stopped paying rent in March. The sole rationale for possession stated in the April complaint is that Tenant did not pay rent in March and April of 2007. PX 108. Housing Provider had a lawful, non-retaliatory reason for bringing the complaint.

(3) Tenant was charged with assault and ordered to stay away from the apartment after the tenant petition was filed on May 3, 2007. Consequently, these alleged acts of retaliation cannot be considered in connection with this tenant petition. *See Zucker v. NWJ Management*, TP 27,690 (RHC May 16, 2005) at 7 ("[T]he filing date is the terminating point for the tenant's claim."); *Menor v. Weinbaum*, TP 22,769 (RHC Aug. 4 1993) at 5 n.6 ("[I]f the filing of the petition were not the cut off point for the issues to be adjudicated, the landlord would never know what was to be defended.").

(4) Even if I were empowered to consider the May 2007 incidents in connection with Tenant's retaliation claim, I would find that Housing Provider has presented clear and convincing evidence that Tenant's lock out was not retaliatory. The evidence demonstrates that Housing Provider had good reason to fear for her personal safety if Tenant were allowed back into the apartment. Tenant assaulted Housing Provider, notwithstanding that two police officers were present as witnesses. The assault was sufficiently violent that Tenant was handcuffed, arrested, and charged. Although Tenant denied that she attacked Housing Provider and accused Housing Provider of conspiring with the police to frame her, her story is implausible. A judge who was not involved in the arrest considered Tenant to be sufficiently dangerous to justify

issuing a stay away order. Housing Provider's decision to exclude Tenant from the apartment and to change the locks was not an act of retaliation. It was an act of self-protection.

F. Tenant's Claims Concerning an Improper Notice To Vacate

Tenant's final assertion in the tenant petition is that she was served with a notice to vacate that violated the requirements of Section 501 of the Rental Housing Act. This section of the Rental Housing Act provides:

Except as provided in this section, no tenant shall be evicted from a rental unit, notwithstanding the expiration of the tenant's lease or rental agreement, so long as the tenant continues to pay the rent to which the housing provider is entitled for the rental unit. No tenant shall be evicted from a rental unit for any reason other than for nonpayment of rent unless the tenant has been served with a written notice to vacate which meets the requirements of this section. Notices to vacate for all reasons other than for nonpayment of rent shall be served upon both the tenant and the Rent Administrator. All notices to vacate shall contain a statement detailing the reasons for the eviction, and if the housing accommodation is required to be registered by this chapter, a statement that the housing accommodation is registered with the Rent Administrator.

D.C. Official Code § 42-3505.01(a).

The tenant's right to remain in a rental unit is subject to an exception for housing providers who seek to evict tenants so that the housing provider can use the rental unit for his or her own personal use.

A natural person with a freehold interest in the rental unit may recover possession of the rental unit where the person seeks in good faith to recover possession of the rental unit for the person's immediate and personal use and occupancy as a dwelling. The housing provider shall serve on the tenant a 90-day notice to vacate in advance of action to recover possession of the rental unit in

instances arising under this subsection. No housing provider shall demand or receive rent for any rental unit which the housing provider has repossessed under this subsection during the 12-month period beginning on the date the housing provider recovered possession of the rental unit.

D.C. Official Code § 42-3505.01(d).

The record demonstrates that Housing Provider complied with the requirements of the Rental Housing Act and the Rental Housing Regulations. Tenant was served with a Notice To Vacate for Personal Use and Occupancy on a form furnished by the Rent Administrator. RX 205. The Notice was served on the Rent Administrator, 14 DCMR 4300.1, contained a statement that the Housing Accommodation was registered with the Rent Administrator and the registration number, 14 DCMR 4302.1(c), and a statement that a copy was being furnished to the Rent Administrator including the address and telephone number of the RACD, 14 DCMR 4302.1(d). It was accompanied by an affidavit attesting to the Housing Provider's intent to use the property for her personal use and occupancy, 14 DCMR 4302.9, and was signed by the Housing Provider, 14 DCMR 4302.11.

The Notice required Tenant to vacate the premises by May 21, 2007. RX 205. As it developed, Tenant was effectively denied use of the apartment on May 17, 2007, when she became subject to the court's stay away order. In addition, Housing Provider changed the locks on the apartment, although the record does not indicate whether the locks were changed before or after May 21, the date specified for Tenant to vacate. In any case, I conclude that Tenant's lock out did not constitute a violation of the Rental Housing Act, even if it did occur prior to the date Tenant was required to vacate. The lock out was provoked by Tenant's own conduct and served to implement a court order. Accordingly, I conclude that Tenant failed to prove that she was

served with a notice to vacate in violation of the provisions of Section 501 of the Rental Housing Act.

III. Conclusion

The evidence here demonstrates that Housing Provider decided to repossess Tenant's rental unit for personal use and occupancy for reasons that did not constitute retaliatory action under the Rental Housing Act. Although personal friction between Housing Provider and Tenant undoubtedly provoked Housing Provider's decision to repossess the unit, Tenant failed to prove that the repossession arose from Tenant's exercise of any rights under the Rental Housing Act. Nor did Tenant prove that related services or facilities in the rental unit were substantially reduced. Housing Provider responded to Tenant's complaints in a timely manner and abated the housing code violations that Tenant reported to the DCRA. Although Housing Provider did terminate Tenant's cable TV and Internet service, Housing Provider was not obligated to provide this service under the lease, so it did not constitute a related service under the Rental Housing Act.

Tenant proved that Housing Provider failed to register the property. But this failure is inconsequential because there was no evidence that Housing Provider's violation of the act was willful. Housing Provider cured this violation by registering the property before Tenant was served with the 90-day Notice To Vacate for Personal Use and Occupancy.

IV. Order

Accordingly, it is this **16th** day of **July, 2008**,

ORDERED, that TP 28,956 is **GRANTED IN PART** and **DENIED IN PART**; and it is further

ORDERED, that Housing Provider is not subject to any penalty for her failure to register the rental unit in accordance with the Rental Housing Act; and it is further

ORDERED, that Tenant's claims that a rent increase was taken while the unit was not in substantial compliance with the District of Columbia Housing Regulations, services and/or facilities provided in connection with the rental of the unit had been substantially reduced, retaliatory action had been directed against Tenant by Housing Provider for exercising Tenant's rights in violation of Section 502 of the Rental Housing Act, and a notice to vacate had been served on Tenant in violation of Section 501 of the Rental Housing Act are **DISMISSED WITH PREJUDICE**; and it is further

ORDERED, that the appeal rights of any party aggrieved by this Final Order are set forth below.⁵

/s/

Nicholas H. Cobbs
Administrative Law Judge

⁵ Although Tenant testified at the hearing on July 23, 2007, that she was locked out of her apartment and no longer lived there, Tenant did not provide this Administrative Court with any forwarding address. The OAH Rules require that a party “promptly notify the Clerk and all other parties” of any change of address. 1 DCMR 2807.4. A legal assistant at this Court attempted to phone Tenant multiple times at the telephone number she entered when she signed in, but there has been no answer. This Court also was unable to obtain a forwarding address from Housing Provider. Therefore we are serving a copy of this Final Order on Tenant at her last known address at the rental unit in dispute here. *See* D.C. Official Code § 42-3502.16(c); *McCaskill v. D.C. Dep’t of Employment Servs.*, 572 A.2d 443, 445 (D.C. 1990) (notice sent to the address provided by respondent is adequate to comply with due process).

APPENDIX**Exhibits in Evidence**

Exhibit No.	Pages	Description
Petitioner		
100	2	Howard University Off-Campus Housing Listing, July 2007
101	3	Complaint History, 2229 Newton St. NE
102	3	Notice of Violation No. 118855 15 dated 4/19/07
103	1	Notice of Violation No. 118855 1 dated 4/19/07
104	1	Notice of Violation No. 118855 7 dated 4/19/07
105	6	Lease dated 11/1/06
106	4	Real Property Tax Bills
107	14	Department of Consumer and Regulatory Affairs Records
108	1	Complaint for Possession, No. 012721 07
109	1	Complaint for Possession, No. 011719 07
110	1	Letter from K. Evans to S. Vanderbilt dated 5/9/07
Respondent		
200	2	Memo Re "Use U.S. Mail"
201	1	Letter from K. Evans to S. Vanderbilt dated 5/12/07
202	1	Letter from K. Evans to Inspector Lowery dated 5/18/07
203	1	Letter from L. Brown-Jenkins to K. Evans dated 6/7/07
204	3	Notices of Abatement dated 7/3/07, 6/1/07, 6/1/07
205	6	Notice To Vacate for Personal Use and Occupancy dated 2/21/07
206	5	Registration/Claim of Exemption Form filed 2/21/07